

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**LEONARD HEMMERLE and
KRISTEN HEMMERLE, Individually
and as Husband and Wife,**

Plaintiffs,

v.

KALAHARI RESORTS PA, LLC, et al.,

Civil Action

No.:

Defendants.

**PETITION OF DEFENDANT, KALAHARI
RESORTS PA, LLC FOR NOTICE OF REMOVAL**

TO THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE MIDDLE
DISTRICT OF PENNSYLVANIA:

AND NOW, comes Defendant, Kalahari Resorts PA, LLC (hereinafter referred to as "Petitioner"), for the purpose of removing this Civil Action to the District Court of the United States for the Middle District of Pennsylvania and, in support thereof, avers as follows:

1. On or about July 5, 2022, plaintiffs commenced this action in the Court of Common Pleas, Monroe County, at Docket No. 3805-cv-2022 (hereinafter "the State Court Action"). See true and correct copy of Complaint, attached hereto as Exhibit "A".
2. Plaintiffs' Complaint was served on counsel for Petitioner, by agreement, on August 16, 2022.¹

¹/ Though plaintiffs filed this action against multiple corporate entities, all of them except Petitioner have been voluntarily dismissed from this action. See true and correct copy of fully-executed and filed Stipulation, attached hereto as Exhibit "B". Notably, the dismissal of those entities had *no* impact on the diversity of the parties and this removal.

3. At the time of the filing of the State Court Action and at the time of removal, Plaintiffs were and are residents and citizens of the State of New Jersey. *See Exhibit "A"*, caption and ¶1.

4. At the time of the filing of the State Court Action and at the time of removal, each of the four (4) individual Defendants were and are, upon information and belief, residents and citizens of the State of New York. *See Exhibit "A"*, caption and ¶¶8-11.

5. At the time of the commencement of the State Court Action and at the time of removal, Petitioner Kalahari Resorts PA, LLC was and is a Delaware Limited Liability Company with its principal place of business in Wisconsin Dells, Wisconsin. *See true and correct copy of Affidavit of Ralph Gundrum*, attached hereto as Exhibit "C".

6. Kalahari Resorts PA, LLC has one member, KR SPE LLC, a Delaware Limited Liability Company with its principal place of business at 1305 Kalahari Drive, Wisconsin Dells, Wisconsin. *See Exhibit "C"*.

7. KR SPE, LLC has one member, Kalahari Resorts, LLC, a Wisconsin Limited Liability Company, with its principal place of business at 1305 Kalahari Drive, Wisconsin Dells, Wisconsin. *See Exhibit "C"*.

8. Kalahari Resorts, LLC, has three (3) members, Todd Nelson, Shari Nelson, and the Nelson Family Endowment Trust. *See Exhibit "C"*.

9. The Nelson Family Endowment Trust is a Wisconsin Trust. *See Exhibit "C"*.

10. Todd Nelson and Shari Nelson are citizens and residents of the State of Wisconsin. *See Exhibit "C"*.

11. Neither Todd Nelson nor Shari Nelson maintains any place of business or residence in the Commonwealth of Pennsylvania. *See Exhibit "C"*.

12. Because this matter involves a controversy between citizens of different states and the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs, this matter is removable under 28 U.S.C. § 1332.

13. This Notice of Removal is timely under 28 U.S.C. § 1446(b) because it is being filed within thirty (30) days after service of the Complaint upon Petitioner.

14. No further proceedings as to Petitioner have taken place with regard to this action in the State Court Action.

15. The above-described action is a Civil Action over which this Court has original jurisdiction pursuant to 28 U.S.C. §1332 and is one which may be removed to this Court by the Petitioner, pursuant to the provisions of 28 U.S.C. §1441.

16. This suit involves a controversy between citizens of multiple different states: The plaintiffs, according to the Complaint, are residents and citizens of the State of New Jersey, and the remaining defendants – four (4) individuals – are, according to the Complaint and upon information and belief, residents and citizens of the State of New York, *see Exhibit “A”*; while Petitioner is not a resident or citizen of the State of New Jersey or the State of New York but, rather, is a resident and citizen of the States of Delaware and Wisconsin. *See Exhibit “C”*.

17. The amount in controversy exceeds seventy-five thousand dollars (\$75,000.00) exclusive of interest and costs as this case allegedly involves severe and permanent injury, including alleged severe facial injuries requiring at least one surgery, scarring and facial disfigurement, and traumatic brain injury to one of the plaintiffs, as well as other physical, emotional, and mental injuries to *both* of the two (2) plaintiffs, in addition to ongoing complaints and limitations, wage loss and loss of earning capacity, and myriad other alleged damages. Claims for punitive damages have also been pled and, though dismissed without prejudice against Defendant, they remain as to the individual defendants. *See Exhibit “A”*.

18. Petitioner has simultaneously with the filing of this Notice given written notice to counsel for plaintiffs and counsel for all named co-defendants in this action.

19. Petitioner has filed a copy of the instant Notice of Removal with all attachments thereto with the Prothonotary of the Court of Common Pleas, Monroe County.

WHEREFORE, Kalahari Resorts PA, LLC, respectfully requests that this suit be removed to this Honorable Court pursuant to the laws of the United States.

Respectfully submitted,

SPECTOR GADON ROSEN VINCI P.C.

By: //cs// H.MEichenbaum
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DATED: August 30, 2022